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Dated: July 30, 2007

Signature: _____

(Melissa Hunter-Ensor, Ph.D.)

Docket No.: 61925(51588)
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
David T. Scadden et al.

Application No.: 10/521,971

Confirmation No.: 1957

Filed: September 26, 2005

Art Unit: 1644

For: PARATHYROID HORMONE RECEPTOR
ACTIVATION AND HEMATOPOIETIC
PROGENITOR CELL EXPANSION

Examiner: M. A. Belyavskyi

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Claims 1-40 are pending in the instant application and are subject to restriction.

The Office Action, on page 2, requires restriction to one of the following groups under 35 U.S.C. §121 and §372:

- Group I: Claims 1-8, drawn to a method for preparing a population of cell for enhancing the growth or maintenance of hematopoietic progenitor cells.
- Group II: Claims 9-11, drawn to a method for enhancing the growth and maintenance of hematopoietic progenitor cells comprising contacting hematopoietic progenitor cells with cell expressing a PTH/PTHrP receptor.
- Group III: Claims 12-22, drawn to a method for enhancing the growth and maintenance of hematopoietic progenitor cells and enhancing mobilization of hematopoietic progenitor cells in a subject each comprising administering to a subject an agent that activates a PTH/PTHrP receptor.

- Group IV: Claims 23-24, drawn to a method for preparing hematopoietic progenitor cells.
- Group V: Claim 25, drawn to an isolated population of stromal cells treated with PTH.
- Group VI: Claims 26-28, drawn to a method for stimulating immune cell expansion, comprising contacting immune cells with cell expressing a PTH/PTHrP receptor.
- Group VII: Claims 29-37, drawn to a method for stimulating immune cell expansion in a subject, comprising administering to a subject an agent that activates a PTH/PTHrP receptor.
- Group VIII: Claims 38-40, drawn to a method for enhancing hematopoietic cell growth in vitro, comprising contacting said cells with a population of cell enriched osteoblasts.

In response to the restriction requirement set forth in the Office Action mailed May 30, 2007, applicant hereby provisionally elects the invention of Group III, claims 12-22 for continued examination. Applicant respectfully traverses this requirement for restriction, and submits that the requirement is improper.

First, Applicant asserts that the subject matter of these groups represent different embodiments of a single inventive concept for which a single patent should issue. The pending claims represent an intricate web of knowledge, continuity of effort, and consequences of a single invention, which merit examination of all of these claims in a single application.

More particularly, a single, searchable, unifying aspect links all of the claims. This single, searchable, unifying aspect relates to the activation of the PTH/PTHrP receptor.

Second, Applicant submits that a sufficient search and examination with respect to the subject matter of all claims can be made without serious burden. As the M.P.E.P. states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

M.P.E.P. § 803 (8th ed., Rev. No. 2, May 2004).


That is, even if the above-enumerated groups of claims are drawn to distinct inventions, the Examiner must still examine the entire application on the merits because doing so will not result in

a serious burden. This is especially true given the robust and extensive computerized search engines and databases at the Examiner's disposal. Accordingly, it is respectfully requested that the restriction requirement be reconsidered and the elected claims of Group III be rejoined with those of Groups I, II and IV-VII, so that claims 1-37 may be presently examined.

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 04-1105.

Dated: July 30, 2007

Respectfully submitted,

By 

Melissa Hunter-Ensor, Ph.D.

Registration No.: 55,289

EDWARDS ANGELL PALMER & DODGE
LLP

P.O. Box 55874

Boston, Massachusetts 02205

(617) 517-5509

Attorneys/Agents For Applicant